

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **TACOMA DIVISION**

11 JOHN DOE #1, an individual, JOHN DOE #2,
12 an individual, and PROTECT MARRIAGE
WASHINGTON,

13 Plaintiffs,

14 vs.

15 SAM REED, in his official capacity as
16 Secretary of State of Washington, BRENDA
GALARZA, in her official capacity as Public
17 Records Officer for the Secretary of State of
Washington,

18 Defendants.

No. 3:09-CV-05456-BHS

**Plaintiffs' Response to Order
to Show Cause**

The Honorable Benjamin H. Settle

19
20
21 In response to this Court's Order to Show Cause, Plaintiffs hereby respectfully request that
22 this Court not stay the District Court proceedings pending the appeal. Plaintiffs intend to amend
23 their Verified Complaint as soon as possible with three new counts related to the Washington
24 Public Disclosure Law that can continue during the pending appeal.

25 Under Fed. R. Civ. P. 15(a)(1)(A), parties may amend their pleadings "once as a matter of
26 course before being served with a responsive pleading." On Friday, September 25, 2009,
27
28

1 Plaintiffs intended to amend their Verified Complaint, pursuant to Rule 15(a)(1)(A), and bring
2 certain challenges to Washington's Public Disclosure Laws, namely, that:

3 (1) Wash. Rev. Code §42.17.090, which requires political committees to report the name and
4 address for any individual who contributes more than \$25 violates the First
5 Amendment;

6 (2) Wash. Adm. Code §390-16-034, which requires political committees to report the
7 occupation, employer's name, and employer's address for every contributor of more
8 than \$100 violates the First Amendment; and

9 (3) Wash. Rev. Code §42.17.105(8), which prohibits political committees from receiving
10 contributions in excess of \$5,000 from any one person during the 21 days preceding an
11 election, violates the First Amendment.

12 Attached hereto as Exhibit A is an unsigned copy of the First Amended Verified Complaint
13 Plaintiffs intended to file on September 25, 2009.

14 On the afternoon of September 25, 2009, Defendants served Plaintiffs with an Answer to
15 their Verified Complaint, thus preventing Plaintiffs from amending their pleadings as a matter of
16 course, pursuant to Rule 15(a)(1)(A). Plaintiffs are now required to obtain the "opposing party's
17 written consent or the court's leave" under Fed. R. Civ. P. 15(a)(2). To that end, after
18 Defendants filed their Answer on September 25, 2009, counsel for Plaintiffs contacted counsel
19 for the State Defendants by phone and informed counsel for State Defendants of Plaintiffs'
20 intention to file the Amended Verified Complaint. Subsequent to the phone call, Plaintiffs
21 provided the State Defendants with a copy of the Amended Verified Complaint, and gave them a
22 deadline of Monday, September 28, 2009 at 12:00 p.m. to respond to Plaintiffs' request for leave
23 to file the Amended Verified Complaint.

24 Because the count related to Wash. Rev. Code §42.17.105(8) requires action by this Court
25 prior to October 13, 2009, Plaintiffs respectfully request that this Court not stay these
26 proceedings pending the appeal, so that the new counts may be heard as soon as possible.

1 Dated this 25th day of September, 2009.

2 Respectfully submitted,

3 s/ Sarah E. Troupis

4 James Bopp, Jr. (Ind. Bar No. 2838-84)*
5 Sarah E. Troupis (Wis. Bar No. 1061515)*
6 Scott F. Bieniek (Ill. Bar No. 6295901)*
7 BOPP, COLESON & BOSTROM
8 1 South Sixth Street
9 Terre Haute, Indiana 47807-3510
10 (812) 232-2434
11 *Counsel for All Plaintiffs*

Stephen Pidgeon
ATTORNEY AT LAW, P.S.
30002 Colby Avenue, Suite 306
Everett, Washington 98201
(360) 805-6677
Counsel for All Plaintiffs

12 *Pro Hac Vice Application Granted

1 **CERTIFICATE OF SERVICE**

2 I, Sarah E. Troupis, am over the age of 18 years and not a party to the above-captioned
3 action. My business address is 1 South Sixth Street, Terre Haute, Indiana 47807-3510.

4 On September 25, 2009, I electronically filed the foregoing document described as Plaintiffs'
5 Response to Order to Show Cause with the Clerk of Court using the CM/ECF system which will
6 send notification of such filing to:

7 James K. Pharris
8 jamesp@atg.wa.gov
Counsel for Defendants Sam Reed and Brenda Galarza

9 Steven J. Dixon
10 sjd@wkdlaw.com
11 Duane M. Swinton
12 dms@wkdlaw.com
13 Leslie R. Weatherhead
14 lwlibertas@aol.com
Counsel for Proposed Intervenor Washington Coalition for Open Government

15 Ryan McBrayer
16 rmcbrayer@perkinscoie.com
17 Kevin J. Hamilton
18 khamilton@perkinscoie.com
19 William B. Stafford
20 wstafford@perkinscoie.com
Counsel for Proposed Intervenor Washington Families Standing Together

21 I declare under the penalty of perjury under the laws of the State of Indiana that the above is
22 true and correct. Executed this 25th day of September, 2009.

23
24
25
26
27
28
29 s/ Sarah E. Troupis
30 Sarah E. Troupis
31 *Counsel for All Plaintiffs*